

## NSP Land Bank Activities

### Land bank as an eligible activity:

Establish and operate land banks for homes and residential properties that have been foreclosed upon. (Section 2301(c)(3)(C) HERA, as amended by ARRA)

### Holding costs

NSP, as amended now allows funds to be used to “operate” a Land Bank.

CDBG eligibility citation is §570.201(b), Disposition, which provides for:

Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG (NSP) funds or its retention for public purposes, including **reasonable costs of temporarily managing such property....**” (emphasis added)

### Use (Obligate) and Expenditure deadline implications

Use (Obligate) – 9/10/2010

Expend – 3/10/2013

### National Objective Compliance – Activity beyond just “holding” property expected

If a “land bank is not merely acquiring properties, but is also carrying out other activities intended to arrest neighborhood decline, such as maintenance, demolition, and facilitating redevelopment of the properties, HUD will, for NSP-assisted activities only, accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally (as described in 24 CFR 570.208(a)(1) and 570.483(b)(1)) to meet a national objective (LMMA)...” (NSP Notice, II. E. Income eligibility requirement changes)

### NSP Land Bank - References and Guidance

#### General Reference Information

<http://www.hud.gov/offices/cpd/about/conplan/foreclosure/landbanks.cfm>

### NSP Notice Excerpts

#### II. Alternative Requirements and Regulatory Waivers

##### A. Definitions for Purposes of the CDBG - Neighborhood Stabilization Program

Land Bank – Definition – See Land Bank Fact Sheet

*Sub recipient.* Sub recipient shall have the same meaning as at the first sentence of 24 CFR 570.500(c). This includes any nonprofit organization (including a unit of general local government) that a state awards funds to. **The term also includes any land bank receiving NSP funds from the grantee or other subrecipient.** (NSP Bridge Notice, June 19, 2009, page 29224) (emphasis added)

#### E. Income Eligibility Requirement Changes - Background

Land banks are not allowed in the regular CDBG program because of the very high risk that the delay between acquiring property and meeting a national objective can be excessively long, attenuating the intended CDBG program benefits by delaying benefit far beyond the annual or even the 5-year consolidated plan cycles. In the regular CDBG program (and in the NSP other than in an eligible land-bank use), a property acquisition activity is dependent on the national objective met by the subsequent reuse of the property in order to demonstrate program compliance. Given this, the HERA direction that assistance to land banks is an eligible use of NSP funds requires an alternative requirement and policy clarification.

For grantees choosing to assist land banks or demolition of structures with NSP funds, the change to the income qualification level for low-, moderate-, and middle-income areas will likely include most of the neighborhoods where property stabilization is required. If an assisted land bank is not merely acquiring properties, but is also carrying out other activities intended to arrest neighborhood decline, such as maintenance, demolition, and facilitating redevelopment of the properties, HUD will, for NSP-assisted activities only, accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally (as described in 24 CFR 570.208(a)(1) and 570.483(b)(1)) to meet a national objective (LMMA) prior to final disposition of the banked property. HUD notes that the grantee must determine the actual service area benefiting from a land bank's activities, in accordance with the regulations.

However, HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods or that this is the best use of limited NSP funds absent a re-use plan. Therefore, HUD is requiring that a land bank may not hold a property for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

#### Requirements

d. An NSP-assisted property may not be held in a land bank for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

[NSP Notice October 6, 2009, page 58335-36]

## **Neighborhood Stabilization Program Land Bank Fact Sheet**

### **NSP Definition of Land Bank**

A land bank is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For the purposes of the NSP, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been ~~abandoned or~~ foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and dispose of the land-banked properties. If the land bank is a governmental entity, it may also maintain ~~abandoned or~~ foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service. (NSP Notice, October 6, 2008, page 58332, as amended, NSP Bridge Notice, June 19, 2009, page 29224)

### **Eligible Uses (Housing and Economic Recovery Act)**

- Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate- income homebuyers
- Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties
- Establish land banks for homes that have been foreclosed upon
- Demolish blighted structures
- Redevelop demolished or vacant properties

### **Eligible Activities (CDBG)**

NSP funds used for land banking must correlate with an eligible activity under 24 CFR 570.201(a) Acquisition & (b) Disposition:

- a) Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of Sec. 570.207.
- b) Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in Sec. 570.504. (Temporarily managing includes maintenance, assembly, facilitating the redevelopment of, and marketing of land banked properties. NSP funds may be used for basic, reasonable maintenance intended to stabilize the property.)

**1) What makes a NSP land bank activity different from other CDBG eligible activities?**

Land banks are not allowed in the regular CDBG program because of the very high risk that the delay between acquiring property and meeting a national objective can be excessively long. In the regular CDBG program (and in the NSP other than in an eligible land-bank use), a property acquisition activity is dependent on the national objective met by the subsequent reuse of the property in order to demonstrate program compliance.

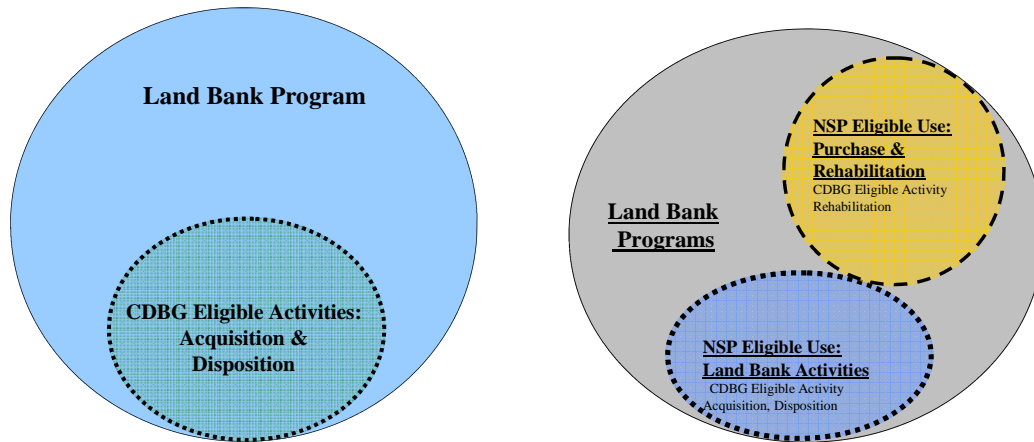
For purposes of land bank activities in the Neighborhood Stabilization Program, a land bank acquires foreclosed or abandoned properties that do not have a designated specific, eligible redevelopment use in accordance with NSP requirements. HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods or that this is the best use of limited NSP funds absent a re-use plan. Therefore, a land bank may only hold the property up to ten years before it obligates the property to an eligible NSP use.

**2) How does one qualify a land bank activity under National Objectives?**

If an assisted land bank is not merely acquiring properties, but is also carrying out other activities intended to arrest neighborhood decline, such as maintenance, demolition, and facilitating redevelopment of the properties, HUD will, for NSP-assisted activities only, accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally (as described in 24 CFR 570.208(a)(1) and 570.483(b)(1)) to meet a national objective (LMMA) prior to final disposition of the banked property. HUD notes that the grantee must determine the actual service area benefiting from a land bank's activities, in accordance with the regulations.

**3) How does one report on land bank program activities in the Neighborhood Stabilization Program?**

Because the NSP definition of land banking is a narrow one, only those activities that fit within the CDBG eligible activity definitions of acquisition or disposition shall be reported as a land bank eligible use. Activities that do not meet the CDBG definition of acquisition or disposition, must be reported as an alternative NSP eligible use (i.e., financing mechanisms, purchase and rehabilitation, demolishing blighted structures, or redeveloping demolished or vacant properties). For example, a land bank that undertakes a rehabilitation program should report such as a NSP rehabilitation eligible use and the correlated CDBG eligible activity.



<http://www.hud.gov/offices/cpd/about/conplan/foreclosure/landbanks.cfm>

## Land Bank FAQ

**The environmental review requirements under NSP1 are taken from the regular CDBG program, but land banking is not allowed under the regular CDBG program. Does that mean that the environmental review requirements do not apply to land banking under NSP1?**

There are no special rules for land banking. However, one must be aware of whether land banking the property will result in a change in land use. If there is a change in land use, the NSP1 grantee must complete both an environmental assessment for compliance with the National Environmental Policy Act is required (§58.35(a)(5)) and a compliance review of only related environmental laws (§58.5). If there is no change in land use, the NSP1 grantee is only required to complete a compliance review of only related environmental laws (§58.5).  
[From FAQ 8/12/09 page 26]

*Posted 06/22/09* **How did the Bridge Notice impact the use of land banks under NSP1?**

The October 6, 2008 NSP1 Federal Register Notice limited the use of land banks with the following language “establish land banks for homes that have been foreclosed upon.”

The June 19, 2009 NSP1 Federal Register Bridge Notice expands the use of land banks with the following language “establish and operate land banks for homes and residential properties that have been foreclosed upon.”  
[From FAQ 8/12/09 page 35-36]

*Updated 06/17/09* **Can land banking include purchasing a foreclosed or abandoned property that has a structure on it or does the property have to be vacant land?**

As stated in the NSP1 Bridge Notice “[NSP1 funds can be used to] establish and operate land banks for homes and residential properties that have been foreclosed upon;” abandoned homes and residential properties are not eligible.  
[From FAQ 8/12/09 page 36]

*Posted 04/21/09* **How does a land bank differ from a land trust?**

The basic differences are timing and land use. A land bank is a short-term (10 years maximum) means of managing land that may not have a defined purpose and cannot be immediately used (e.g. market conditions), while a land trust is a long-term land management technique with a defined purpose and benefit for another party.  
[From FAQ 8/12/09 page 36]

*Posted 11/13/08* **If the grantee buys property for the purposes of a land bank under eligible use (C) and allows tenants to move into the units on a temporary basis, would those tenants be entitled to relocation assistance if they are later required to move out? The issue with this eligible activity is that grantees have 10 years to re-use the property so it could presumably be many years later that someone would be asked to move out once a final use is determined.**

If no person was displaced by the acquisition of the property for the land bank, then the URA is not applicable at the time of the acquisition. If the grantee allows a tenant to move into the acquired property prior to a planned federally-funded re-use project, the tenant-occupant is not eligible for relocation assistance as a result of the original acquisition (see 49 CFR 24.2(a)(9)(ii)(B)). However, the tenant-occupant may be eligible for relocation assistance if they are made to move for a planned re-use project that is funded with federal financial assistance.

[From FAQ 8/12/09 page 36]

Comment – See Guidance on “Move-In Notice” relocation provisions of URA